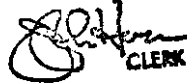


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
FEB 13 2009

CLERK

LARRY COCHRUN,

Petitioner,

vs.

BOB DOOLEY, Warden,

Respondent.

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CIV 08-4186

ORDER

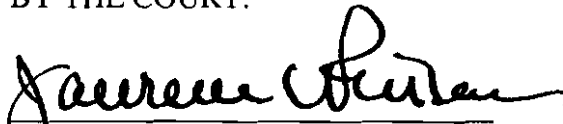
The Court has reviewed the file including the Report and Recommendation of Magistrate Judge Simko dated December 5, 2008, as well as the objections of Petitioner Larry Cochrun to that Report and Recommendation, those objections having been filed on January 16, 2009. The Report and Recommendation explains to Petitioner Cochrun what he must do to exhaust his state remedies. No exceptional circumstances have been shown to warrant waiver of the state exhaustion requirement. Accordingly,

IT IS ORDERED:

1. That Petitioner Cochrun's Objections, Doc. 11, to the Report and Recommendation are DENIED, and the Report and Recommendation, Doc. 6, is ADOPTED and Petitioner's § 2254 Petition for Writ of Habeas Corpus is dismissed without prejudice.
2. That Petitioner's Motion for Appointment of Counsel, Doc. 4, is denied.
3. That Petitioner's Motion to Proceed in forma pauperis, Doc. 2, is granted, and Petitioner shall pay the \$5.00 filing fee to the Clerk of Courts, if not already paid.

Dated this 13th day of February, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lawrence L. Piersol", written over a horizontal line.

Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: Sherry Maryulis
DEPUTY